

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

DWAYNE DOOLIN,

Plaintiff,

v.

STATHAM, et al.,

Defendants.

CAUSE NO.: 3:19-CV-1006-DRL-MGG

OPINION AND ORDER

Dwayne Doolin, a prisoner without a lawyer, moves the court for reconsideration of the court's order granting summary judgment in favor of the defendants. ECF 29. The court granted the defendants' summary judgment motion because the undisputed facts showed Mr. Doolin did not exhaust his administrative remedies at Indiana State Prison (ISP) before filing suit. ECF 25. Specifically, the court found it was undisputed that: (1) Mr. Doolin submitted a grievance to ISP's Grievance Specialist listing a submission date of August 1, 2019; (2) ISP's Grievance Specialist did not receive the grievance until August 23, 2019; (3) ISP's Grievance Specialist returned the grievance as untimely on August 27, 2019; and (4) even assuming Mr. Doolin timely submitted his grievance, he did not notify ISP's Grievance Specialist of the fact that he did not receive a response within five business days of submitting his grievance. *Id.* at 4-5.

In his motion for reconsideration, Mr. Doolin now asserts he did notify ISP's Grievance Specialist of the fact that he received no response within five days of submitting his grievance. ECF 29 at 1-2. However, arguments that "could have been

submitted along with [the] response to the motion for summary judgment [are] not properly presented for the first time in a motion for reconsideration.” *King v. Ford Motor Co.*, 872 F.3d 833, 838–39 (7th Cir. 2017). In the defendants’ summary judgment motion, they argued and submitted evidence that Mr. Doolin did not provide notice to ISP’s Grievance Specialist. ECF 17 at 8; ECF 17-1 at 7. Mr. Doolin did not dispute that evidence, and the court accepted it as undisputed. *See* ECF 20; ECF 25 at 4-5. Mr. Doolin cannot now raise this argument for the first time in a motion for reconsideration. *See King*, 872 F.3d at 838-39; *see also Publishers Resource v. Walker–Davis Publications*, 762 F.2d 557, 561 (7th Cir. 1985) (holding that a motion for reconsideration cannot be used to introduce new evidence or arguments that could have been presented during the pendency of the previous motion).

For these reasons, the motion to reconsider (ECF 29) is DENIED.

SO ORDERED.

August 11, 2021

s/ Damon R. Leichty
Judge, United States District Court